MONTANA LEGISLATIVE HISTORY

Chapter 251 1997

Bill H 533 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Business & Industry		
Hearing Date(s)	2/17	C	Hearing Date(s)	3/19	C
typo on 2/17 HB97 is HB533	2/18	C		3/19	C
		C			C
		C			C
Date Out		C			

Exhibits

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

No House Vote sheet in Add exhibits &

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 200		
	EFFECTIVE DATE: 01/01/98		

HB 533 INTRODUCED BY DEVANEY, ET AL. *LC1162 DRAFTER: MALY*

PROVIDE AN EXEMPTION FROM REAL ESTATE LICENSURE REQUIREMENTS FOR A PERSON WHO PERFORMS ACTS WITH RESPECT TO CERTAIN RIGHT-OF-WAY TRANSFERS, CONDEMNATIONS, OR GOVERNMENTAL OR TRIBAL PERMITS

2/12	INTRODUCED		
2/12	FIRST READING		
2/12	REFERRED TO BUSINESS & LABOR		
2/17	HEARING		
2/18	FISCAL NOTE REQUESTED		
2/19	COMMITTEE REPORT—BILL PASSED		
2/24	2ND READING PASSED	64	34
2/26	3RD READING PASSED	68	32
	TRANSMITTED TO SENATE		
3/04	FIRST READING		
3/04	REFERRED TO BUSINESS & INDUSTRY		
3/19	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	50	0
3/28	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
4/04	SIGNED BY SPEAKER		
4/05	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 251		
	EFFECTIVE DATE: 10/01/97		

HB 534 INTRODUCED BY WELLS, ET AL. *LC1316 DRAFTER: ERICKSON*

MAKE THE STATE LIABLE FOR INTEREST AND ATTORNEY FEES IN A JUDGMENT INVOLVING A CONTRACT

2/12	INTRODUCED		
2/12	FIRST READING		
2/12	REFERRED TO STATE ADMINISTRATION		
2/12	FISCAL NOTE REQUESTED		
2/17	FISCAL NOTE RECEIVED		
2/18	HEARING		
2/18	FISCAL NOTE PRINTED		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	87	12
2/26	3RD READING PASSED	71	28
	TRANSMITTED TO SENATE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/06	REREFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	32	16
3/28	3RD READING CONCURRED	38	10
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	100	0
4/11	3RD READING CONCURRED AS AMENDED	74	22
4/15	SIGNED BY SPEAKER		

House BILL NO. 533

INTRODUCED BY Grinde Gunderson Anderson Stahl Holland L. Taylor Kerr

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXEMPTION FROM REAL ESTATE LICENSURE REQUIREMENTS FOR A PERSON WHO PERFORMS ACTS WITH RESPECT TO CERTAIN RIGHT-OF-WAY TRANSFERS, CONDEMNATIONS, OR GOVERNMENTAL OR TRIBAL PERMITS; AND AMENDING SECTION 37-51-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-51-103, MCA, is amended to read:

"**37-51-103. Exemptions.** (1) An act performed for compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating ~~therefor~~ a real estate transaction for others, except as specified in this section, ~~shall constitute~~ must identify the person performing any of the acts as a real estate broker or a real estate salesperson. The provisions of this chapter ~~may~~ do not:

(a) apply to any person who, as owner or lessor, ~~shall perform~~ performs any acts listed in subsection (1) with reference to property owned or leased by ~~himself~~ the person or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by the owner or lessor;

(b) apply to any person acting as attorney-in-fact under a ~~duly executed~~ special or general power of attorney from the owner of any real estate authorizing the purchase, sale, exchange, renting, or leasing of any real estate, unless the person acting as attorney-in-fact does so regularly or consistently for a person or persons, for or with the expectation of receiving a fee, commission, or other valuable consideration in conjunction with a business or for the purpose of avoiding license requirements;

(c) ~~be construed to~~ include in any way the services rendered by any attorney at law in the performance of ~~his duty as an attorney at law~~ the attorney's duties;

(d) apply to any person ~~duly~~ appointed by a court for the purpose of ~~evaluation~~ evaluating or appraising an estate in a probate matter;

(e) ~~be held to~~ include~~, while acting as such,~~ a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor,

or trustee to aid and assist in conducting a public sale held by the officer;

(f) apply to public officials in the conduct of their official duties;

(g) apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any hydrocarbons, hard minerals, or mining rights ~~therein~~, whether upon a royalty basis or otherwise; ~~or~~

(h) apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by ~~this state~~ Montana or an agency or subdivision ~~thereof~~ of Montana or by the government of the United States or an agency ~~thereof~~ of the United States; or

(i) apply to a person performing any act with respect to the following types of land transactions:

(i) right-of-way transfers for roads, utilities, and other public purposes, not including conservation easements or easements for recreational purposes;

(ii) condemnations; or

(iii) governmental or tribal permits.

(2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation or to a radio or television station engaged in the normal course of business."

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 17, 1997, at 8:00 AM, in Room 312-2.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 535; HB 442; HB 533; HB 532; (2/12/97)
Executive Action: HB 535; HB 345

HEARING ON HB 97

Opening Statement by Sponsor: **Rep. Devaney,** H. D. 97 introduced HB 533.
{Tape: 2; Side: 2; Approx. Time Count: 8.0; Comments: None.}

Proponents' Testimony:
Margaret Morgan, Director, MT Assn of Realtors
{Tape: 2; Side: 2; Approx. Time Count: 104.; Comments: None.}

David Howe, MT Right of Way Spec. EXHIBIT 13.
{Tape: 2; Side: 2; Approx. Time Count: 11.8; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 2; Side: 2; Approx. Time Count: 12.9; Comments: None.}

Closing by Sponsor: **Rep. Devaney** closed.
{Tape: 2; Side: 2; Approx. Time Count: 23.5; Comments: None.}

HEARING ON HB 532

Opening Statement by Sponsor: **Rep. Barnett,** H.D. 32 introduced HB 532. **EXHIBIT 14.**
{Tape: 2; Side: 2; Approx. Time Count: 25.9; Comments: None.}

Proponents' Testimony:
Don Cape, Bozeman, MT
{Tape: 2; Side: 2; Approx. Time Count: 28.4; Comments: None.}

Stuart Doggett, MT Manufactured Housing and RV Assn. EXHIBIT 15.
{Tape: 2; Side: 2; Approx. Time Count: 30.2; Comments: None.}

Court Harrington, County Treasurer Assn.
{Tape: 2; Side: 2; Approx. Time Count: 34.8; Comments: None.}

Opponents' Testimony: None.

Informational Testimony: **Bud Shane, Chief of Titles and Registration.**
{Tape: 2; Side: 2; Approx. Time Count: 37.0; Comments: None.}

Randy Wilk-Dept of Revenue
{Tape: 2; Side: 2; Approx. Time Count: 38.3; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 2; Side: 2; Approx. Time Count: 38.6; Comments: None.}

Closing by Sponsor: **Rep. Barnett** closed.
{Tape: 3; Side: 1; Approx. Time Count: 16.3; Comments: None.}

HOW LAND SERVICE
16889 Frontage Road #3
Belgrade, MT 59714
(406) 388-4878
February 16, 1997

EXHIBIT 13
DATE 2/17/97
HB 533 97

HB533: "AN ACT PROVIDING AN EXEMPTION FROM REAL ESTATE LICENSURE ..."

A very necessary act that will benefit the citizens of Montana by allowing better qualified people in the Right of Way Profession to negotiate the acquisition of partial interests in land.

I support HB533 but would propose that this committee consider making a change to 37-51-103 (Exemptions (1)(i)[eye](i)[one] by adding irrigation facilities and deleting the "not including conservation easements or easement for recreational purposes;" so the paragraph will read "right -of-way transfers for road, utilities, *irrigation facilities* and other public purposes, not including conservation easements or easements for recreational purposes;."

My reasons,
Irrigation is still an important part of the agricultural landscape but development is moving onto these lands. It appears to me that the location of many of these existing canals are not described in any records and the easement rights are not documented. Additionally, development may require relocating the structure and rights. The accomplishment of this task is better suited to the Right of Way Professional than to the Realtor. Of course proper surveys, descriptions and identification of legal rights by the appropriate professional is required.

Conservation Easements. Although frequently these easements are granted by an owner on his own land, various groups and government entities are acquiring them. The skills require to properly accomplish the acquisition of conservation easement are not related to the regular business accomplished by Realtor's. The buyer drives the purchase. Although it is likely the purchaser will be a government agency it could as easily be an environmental or conservation organization. The landowner, while not necessarily agreeable at the onset usually agrees in the end.

Realtors, while well qualified people, generally do not have the same skills as a Right of Way Professional. The arena is different, rather than a willing seller and willing buyer, there is a government agency, land resource company, utility company or a landowner who desires some kind of easement and right of way across the land of another to efficiently conduct his business. The listing drives the Realtor's work. A land management program, be it a government agency's or a land owner's drives the right of way field. The Realtor's daily work usually does not extend to the areas such as uniform act procedures, condemnation procedures, or include training in surveys, negotiations, appraisals, engineering and environmental matters as are required by Right of Way Professional.

I have a professional designation " Senior Member" in the International Right of Way Association. I am not appearing as a representative of the Association but as an individual.

David C. How SR/WA, EAC, Land & Right of Way Consultant

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 18, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 541; HB 543; HB 545 539;(2/13/97)
Executive Action: HB 447; HB 533; HB 532;

EXECUTIVE ACTION ON HB 447

Motion: **Rep. Stovall** moved do pass HB 447
{Tape: 1; Side: 1; Approx. Time Count: 1.1; Comments: None.}

Motion/Vote: **Rep. Stovall** moved to adopt Stovall amendments. Motion carried unanimously.
{Tape: 1; Side: 1; Approx. Time Count: 1.7; Comments: None.}

Motion/Vote: **Rep. Stovall** moved do pass HB 447 as amended. Motion carried unanimously.
{Tape: 1; Side: 1; Approx. Time Count: 3.2; Comments: None.}

EXECUTIVE ACTION ON HB 533

Motion: **Rep. Devaney** moved do pass HB 533.
{Tape: 1; Side: 1; Approx. Time Count: 4.3; Comments: None.}

Discussion:
{Tape: 1; Side: 1; Approx. Time Count: 4.4; Comments: None.}

Vote: Motion carried 16-3. **Reps. Trexler, Squires and Ewer** voted no.
{Tape: 1; Side: 1; Approx. Time Count: 7.9; Comments: None.}

EXECUTIVE ACTION ON HB 532

Motion: **Rep. Barnett** moved do pass HB 532.
{Tape: 1; Side: 1; Approx. Time Count: 8.5; Comments: None.}

Motion/Vote: **Rep. Barnett** moved to adopt Barnett amendments. Motion carried unanimously.
{Tape: 1; Side: 1; Approx. Time Count: 8.5; Comments: None.}

Motion/Vote: **Rep. Barnett** moved do pass HB 532 as amended. Motion passed 17-2. **Reps. Devaney and Sliter** voted no.

EXECUTIVE ACTION ON HB 442

Motion: **Rep. Pavlovich** moved do pass HB 442.
{Tape: 1; Side: 1; Approx. Time Count: 10.3; Comments: None.}

Discussion:
{Tape: 1; Side: 1; Approx. Time Count: 10.4; Comments: None.}

Motion: **Rep. Pavlovich** withdrew his motion.
{Tape: 1; Side: 1; Approx. Time Count: 11.0; Comments: None.}

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 19, 1997, at 9:00 A.M., in ROOM 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 375; HB 533; 3/5/97
Executive Action: HB 375; HB 533; HB 431; HB 435; HB 406; HB 78; HB 399; HB 478; HB 492
HB 287 TABLED

HEARING ON HB 375

Sponsor: REP. WILLIAM RYAN, HD 44, GREAT FALLS

Proponents: Carl Schweitzer, MT Contractors Assoc.
Don Chance, MT Building Industry Assoc.
Kurt Baltrusch, Montana-Dakota Utilities, Billings
Gary Wiens, MT Electric Cooperatives Association
Bud Criner, One Call Service Center

Opponents: None

{Tape: 1; Side: A; Approx. Time Count: 9:28 AM; Comments: AN 8 MINUTE BREAK WAS TAKEN.}

HEARING ON HB 533

Sponsor: REP. CHARLES DEVANEY, HD 97, PLENTYWOOD

Proponents: Dan Walker, DuBray Land Services
Margaret Morgan, MT Assoc. of Realtors
Mike Strand, MT Independent Telecommunications Systems
Barbara Ranf, U. S. West
Gary Wiens, MT Electric Cooperatives Association

Opponents: None

Opening Statement by Sponsor:

REP. CHARLES DEVANEY, HD 97, PLENTYWOOD. HB 533 treats a very small segment of our economy. There is a certain vocation in Montana that supplies service to government entities or public utilities in obtaining right-of-ways and easements. Sometime ago, the Board of Realtors reviewed the things that these people do and decided that because they are out obtaining real estate easements that they should carry salesmen's licenses. The people went ahead and applied for a salesmen's license. Then they had a hard time finding a broker to work for because they don't get paid for listings, commissions, etc. Basically they get paid for the job that they do with Montana Power Co., etc. So they had a hard time getting a broker to work under. These people worked for two or three years and decided that now they knew what they were doing, why not apply for a broker's license. But the Board of Realtors said no they couldn't apply for a broker's license because they were not qualified. So they didn't really fit into any particular nitch. The two groups then reached an agreement that resulted in HB 533. People who are doing this narrow scope of activity would be exempted from carrying a salesmen's license for the realtors. That is what this bill does.

Proponents' Testimony:

Dan Walker, DuBray Land Services, Billings. I was involved in the negotiations with the MT Board of Realtors in which we came up with the exemption. We feel that this is the best solution for all concerned. In the House committee there were some questions about the types of work that we do. Typically a company like mine is employed by any number of other entities, sometimes even individuals whereby we research documents in the court house for obtaining rights-of-way for utility companies, for highway jobs, for airports, for pipeline companies, etc. Our work is almost always involved with securing rights-of-ways.

Margaret Morgan, MT Association of Realtors. We recognize the problem that exists for licensure for those individuals that are

employed by utility companies that buy and sell rights-of-way. Right now these individuals are required to be licensed and there are problems in this. For example, they need to be supervised by a broker. Or they need to continue with continuing education with 12 credits of study every year. Continuing education classes do a lot of training for these individuals because it is a very specialized type of real estate transfer activity. By the same token we do not feel that these individuals should be able to receive a broker's license with their limited activity in real estate transfers. So we got together and worked on this problem. We were instrumental in the language you see in this bill. We are adamant that it remain very narrow because it describes a very narrow scope of real estate transfer activity. Therefore, as this bill is written it has our support. Thank you for you time.

Mike Strand, MT Independent Telecommunications Systems. I was contacted about six months ago with regard to the possibility that our right-of-way employees might need to be licensed real estate brokers. I performed a legal analysis under the law in that regard. I disagreed that this would be necessary. This process was a much better way to go and we stand in support of this bill. Thank you.

Barbara Ranf, U. S. West. We are in support of this bill. We hope that you concur also.

Gary Wiens, MT Electric Cooperatives Association. The association supports this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BEA MCCARTHY asked what type of training will these people have in the future? **Ms. Morgan** said that the utilities people know the best education that is necessary for their people. **Mr. Walker** said that the training they use is provided by the International Right-of-Way Association which is an association that has come together over time and provides training, manuals, principals, etc. for the training of our people in this business.

Closing by Sponsor:

REP. DEVANEY closed. I appreciate the questions and I feel that this is a fairly cut and dried bill to accept the very small window for these people to do their jobs. We would appreciate your support.

{Tape: 1; Side: A; Approx. Time Count: 9:41 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 533

Motion/Vote: SEN. WILLIAM CRISMORE MOVED HB 533 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. HARP WILL CARRY.

EXECUTIVE ACTION ON HB 431

Motion: SEN. STEVE BENEDICT MOVED HB 431 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 431 (EXHIBIT 1) hb043101.abc.

Discussion: **Bart Campbell** explained the amendments. Immediate effective date was included. The bill will also be applied to all long distance carriers.

Vote: The MOTION to AMEND HB 431 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. BENEDICT MOVED HB 431 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. J. D. LYNCH WILL CARRY.

{Tape: 1; Side: A; Approx. Time Count: 9:50 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 435

Motion: SEN. BEA MCCARTHY MOVED HB 435 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED TO AMEND HB 435 (EXHIBIT 2) hb043501.abc.

Discussion: **Bart Campbell** explained the amendments. The confidentiality portion was clarified and made more restrictive.

Vote: THE MOTION to AMEND HB 435 CARRIED UNANIMOUSLY: 5-0

Substitute Motion: SEN. CASEY EMERSON MOVED TO TABLE HB 435.

Vote: The MOTION TO TABLE HB 435 FAILED with SENATORS HERTEL, MCCARTHY AND BENEDICT voting NO: 2-3

Motion/Vote: SEN. MCCARTHY MOVED HB 435 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH SENATOR EMERSON voting NO: 4-1 SEN. SHEA WILL CARRY.

{Tape: 1; Side: B; Approx. Time Count: 9:59 AM; Comments: N/A.}

SENATE STANDING COMMITTEE REPORT

March 19, 1997

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill 533 (third reading copy -- blue), respectfully report that House Bill 533 be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

TS Amd. Coord.
SR Sec. of Senate

Senator John Harp
Senator Carrying Bill

601243SC.STS

HOUSE BILL NO. 533

INTRODUCED BY DEVANEY, GRINDE, BEAUDRY, KNOX, ANDERSON, BARNETT, SLITER, HOLLAND, L. TAYLOR, ROSE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXEMPTION FROM REAL ESTATE LICENSURE REQUIREMENTS FOR A PERSON WHO PERFORMS ACTS WITH RESPECT TO CERTAIN RIGHT-OF-WAY TRANSFERS, CONDEMNATIONS, OR GOVERNMENTAL OR TRIBAL PERMITS; AND AMENDING SECTION 37-51-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-51-103, MCA, is amended to read:

"**37-51-103. Exemptions.** (1) An act performed for compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating ~~therefor~~ a real estate transaction for others, except as specified in this section, ~~shall constitute~~ must identify the person performing any of the acts as a real estate broker or a real estate salesperson. The provisions of this chapter ~~may~~ do not:

(a) apply to any person who, as owner or lessor, ~~shall perform~~ performs any acts listed in subsection (1) with reference to property owned or leased by ~~himself~~ the person or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by the owner or lessor;

(b) apply to any person acting as attorney-in-fact under a ~~duly executed~~ special or general power of attorney from the owner of any real estate authorizing the purchase, sale, exchange, renting, or leasing of any real estate, unless the person acting as attorney-in-fact does so regularly or consistently for a person or persons, for or with the expectation of receiving a fee, commission, or other valuable consideration in conjunction with a business or for the purpose of avoiding license requirements;

(c) ~~be construed to~~ include in any way the services rendered by any attorney at law in the performance of ~~his duty as an attorney at law~~ the attorney's duties;

(d) apply to any person ~~duly~~ appointed by a court for the purpose of ~~evaluation~~ evaluating or appraising an estate in a probate matter;

(e) ~~be held to~~ include~~, while acting as such,~~ a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed

of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting a public sale held by the officer;

(f) apply to public officials in the conduct of their official duties;

(g) apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any hydrocarbons, hard minerals, or mining rights ~~therein~~, whether upon a royalty basis or otherwise; ~~or~~

(h) apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by ~~this state~~ Montana or an agency or subdivision ~~thereof~~ of Montana or by the government of the United States or an agency ~~thereof~~ of the United States; or

(i) apply to a person performing any act with respect to the following types of land transactions:

(i) right-of-way transfers for roads, utilities, and other public purposes, not including conservation easements or easements for recreational purposes;

(ii) condemnations; or

(iii) governmental or tribal permits.

(2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation or to a radio or television station engaged in the normal course of business."

-END-